

USDA School Meal Programs Civil Rights Training

August 2015

Purpose of Civil Rights Training

- To inform, educate, and support all staff who interact with Child Nutrition Program (CNP) applicants:
 - Staff rights and responsibilities as administrators of CNPs
 - General USDA Civil Rights requirements
 - Resources and information available to assist staff in carrying out their Civil Rights responsibilities

What Are Civil Rights?

- The nonpolitical rights of a citizen; the rights of personal liberty guaranteed to U.S. citizens by the 13th and 14th Amendments to the U.S. Constitution and the acts of Congress

What is Discrimination?

- The act of distinguishing one person or group of persons from others, either intentionally, by neglect, or by the effect of actions, or lack of actions based on their protected classes

Districts and Sponsors Receiving USDA Funds Must Follow Civil Rights Regulations and Policy:

- Food and Nutrition Service (FNS) 113-1 regulations cover these programs:
 - National School Lunch, Breakfast, and Special Milk
 - Summer Food Program
 - Food Distribution Program
 - Child Care Food Program

Federal Law Prohibits Discrimination on the Basis of These Protected Classes:

- Race
- Color
- National Origin
- Sex
- Disability
- Age

Protected Classes Under Maine State Law

- Adds protections for persons with regard to religion, ancestry, and sexual orientation
- All Federal Child Nutrition Programs operating in *public school districts* in the State of Maine must adopt both Federal and State protected classes

Notifying the Public of
Program Benefits and Requirements

Public Notification

PURPOSE:

- To inform surrounding area (especially under-represented groups), that your school agency participates in the CNPs
- To reach as many applicants, participants, and potentially eligible persons as possible
 - Potentially eligible: individual or household that may be eligible to receive FNS program assistance, benefits, or services, but have not applied
- To ensure program access

Public Notification

Must include information on:

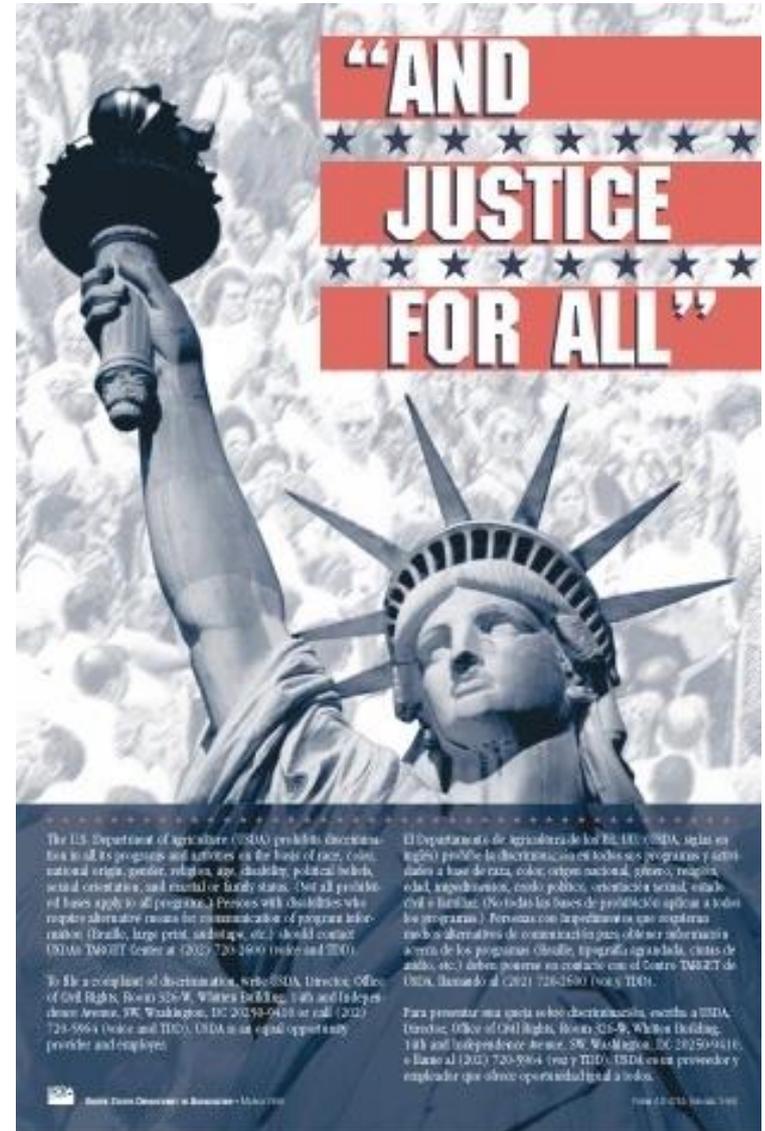
- Eligibility
- Benefits & Services (i.e. free or reduced price school meals and snacks)
- Program availability (location of local facilities or service delivery points, hours of service)
- Applicant rights and responsibilities
- Procedures for filing a complaint
- Non-discrimination policies
- Any programmatic changes (i.e. changing location of a meal site)

Methods of Public Notification

- **Post “And Justice for All” Poster (required)**
 - Includes the USDA’s nondiscrimination statement and lists the USDA contact information for filing a complaint of discrimination.
- **Other methods of public notification (optional):**
 - Bulletins
 - Letters/Leaflets/Brochures
 - Internet/Computer-based Applications

“And Justice for All” Poster

- All agencies participating in Child Nutrition Programs must display the USDA’s non-discrimination poster in a prominent area where participants and potential participants have access
 - Examples: cafeteria/food service area, Child Nutrition Office
- Must be posted at every food service/preparation site
- Must be 11” x 17” format



Obtaining “And Justice For All” Posters

- **“And Justice for All”** poster is available to download from the USDA website for temporary use
- (www.usda.gov/cr/justice.htm)



Non-Discrimination Statement

A USDA required non-discrimination statement must be included on **ALL** forms of communication and program materials *related to receipt of free or reduced-price Child Nutrition Program benefits*, including all materials for public information, education, or distribution that mention USDA programs

Required USDA Non-Discrimination Statement Language

“The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal and, where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or if all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).

Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).”

Maine Non-Discrimination Statement

- This institution is an equal opportunity provider. In accordance with State law this institution is prohibited from discrimination on the basis of race, color, national origin, sex, age, sexual orientation or disability. (Not all prohibited bases apply to all programs.)
- To file a complaint of discrimination, write Maine Department of Education, Civil Rights Officer, 23 State House Station, Augusta, ME. 04333, or call (207)624-6820. Maine is an equal opportunity provider and employer.

Required Non-Discrimination Statement Language

If the material or document is too small to permit the full statement (above) to be included, the material **MUST**, at a minimum, include:

“The Maine Department of Education and the USDA are equal opportunity providers and employers.”

Non-Discrimination Statement

- Wording for either statement must be exact and cannot be changed in any way
- Print size for either statement shall be no smaller than the text of the material
- Shorter version of non-discrimination statement may be used for broadcast advertisements/public service announcements

Examples of Informational Materials that Require the Non-Discrimination Statement

- Print Advertisements
 - Flyers
 - Brochures
 - Posters
- Agency Publications
 - Parent/Student Handbooks
 - Employee Handbooks
 - Newsletters
- School Websites
- Letters
- Broadcast Advertisements/Public Service Announcements
 - Internet
 - Radio
 - TV
- Enrollment Forms
- Menus (if public receives copies)

**Not required to be printed on items such as cups, buttons, magnets, pens, etc. due to impractical size

Other Things to Consider...

To convey the message of equal opportunity—
reflect diversity and inclusion in all program or
program-related information,
photos and graphics



Customer Service



Customer Service

- All students must be allowed equal opportunities to participate in CN programs regardless of race, color, national origin, sex, age, disability, or other State protected classes
- All participants must be treated in the same manner (i.e. seating arrangements, serving lines, services and facilities, assignment of eating periods, methods of selection for application approval and verification processes)

Meal Service

All persons must:

- Be included in meal and snack service, activities, and discussions
- Receive equally positive comments, as well as constructive education regarding meal time, nutrition, manners, etc
- Be held to standards of behavior that are not based on Federal and State protected classes (race, color, religion, etc.)

Meal Service

Children must not be required to use a separate dining room, separate serving line, or separate serving time based on eligibility for free/reduced meals, sex, national origin, race/color, etc

Examples:

- Students of about the same age are given about the same time to eat
- Students whose first language is Spanish are not required to sit at a “Spanish-speaking” table for meals
- Boys are not seated at separate tables from girls (this is implied segregation and questionable unless done for disciplinary or legitimate reasons)

Meal Service

All students within the same grade grouping must be offered the same selection of menu items in the same amounts regardless of their eligibility, sex, national origin, race/color, etc., including when a school offers :

- A selection of more than one type of meal that is claimed for reimbursement
- A variety of foods and fluid milk for choice within the meal requirements

Examples:

- Boys and girls in the same grade are offered the same food, in the same amounts
- Leftovers at the end of the lunch period are offered to everyone (i.e. not just the boys, etc.)
- Certain items are “saved “for all students, not just for specific students.

Denial of Meals

USDA policy prohibits the denial of meals as a disciplinary action against any student who is enrolled in a school that participates in the Child Nutrition Programs, including:

- Disciplinary actions that directly result in loss or denial of meals
- Requiring a child to work for his/her meals

The following are circumstances where meals may be denied.

- Disciplinary actions that indirectly result in loss of meals (i.e. student is suspended from school)
- Schools are not required to serve children who receive reduced- or full-price meals but do not have money to pay, however:
 - It is recommended that schools establish policies to handle such situations and inform parents/students of limitations of policy
 - Each school is free to decide whether to institute negative balance limits or provide alternative meals/food items for these students

F/R Application Approval Process

- Denied F/R applications shall not be disproportionately composed of minority groups
- Admission procedures must not restrict minority persons from enrolling in school or participating in the meal/snack programs
- Students may not be required to participate in the Child Nutrition Programs

Confidentiality: Information Provided on F/R Applications

The USDA authorizes schools to release only student F/R eligibility status to entities as stated in the *Eligibility Manual for School Meals* (page 53)

-In many cases a household waiver of confidentiality may be required!

**NO OTHER INFORMATION ON APPLICATION
MAY BE RELEASED!**

Written Household Waiver

- Clearly informs households of the waiver's purpose
- Authorizes release of free and reduced-price eligibility information
- Identifies how the information will be used
- Identifies who will use the information
- Is signed by parent or guardian (note: schools are not responsible for verifying authenticity of parent/guardian signatures)

Confidentiality of F/R Eligibility

- Names, or other forms of identifying information, of children must not be published, posted, shared, or announced in any manner. Identifying information must not be used for any purpose other than determining and verifying eligibility for F/R meals
- Overt identification of any of the children by use of special tickets or tokens is prohibited
 - Agency must use collection procedures that have been approved via the online contract
- No overt identification may be used when ordering meals for special functions (field trips, class parties)
 - Examples: students raising hands, forms sent home that identify eligibility

Language Assistance

LEP Language Assistance

All organizations receiving Federal financial assistance via participation in Child Nutrition Programs have a responsibility to take “reasonable steps” to ensure meaningful access to their programs and activities by persons with Limited English Proficiency (LEP)

Limited English Proficiency (LEP): Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English

Primary Factors to Consider When Determining “Reasonable Steps”

- Number and proportion of LEP persons served or encountered in eligible population
 - The greater the number = the higher the need
- Frequency with which LEP individuals come in contact with program
- Nature and importance of program, activity, or service
 - Will denial of service cause a serious or life-threatening implication for potential participants?
- Resources available to the recipient/costs
 - Accessibility of a translator for applications, etc.
 - Availability of materials in various languages

Language Translations for Program Materials

- **Make Child Nutrition Program information available to all persons in their language**
 - Provide informational materials in the appropriate translation concerning the availability and nutritional benefits of the meal programs
 - Household applications in 31 other languages can be found at www.fns.usda.gov/cnd/FRP/frp.process.htm

Language Interpreters

- Volunteers may be used, but should understand ethics for using interpreters
 - Example: Spanish teacher could assist a household in completing an application but would need to be trained on the importance of keeping all information received from the household confidential
- See www.lep.gov for more information and resources

Assistance for Populations with Literacy Concerns

- Inform adult household members known to have literacy deficiencies of program benefits verbally
- Enlist a staff member to assist applicants with literacy concerns in completing F/R meal applications

Reasonable Accommodation of **Persons with Disabilities**

What is a Disability?

Definition: physical or mental impairment which substantially limits one or more of an individual's major life activities, has a record of such and impairment, or is regarded as having such an impairment

Disabilities are defined based on the Sect 504 of the Rehabilitation Act/Americans with Disabilities Act and Part B of Individuals with Disabilities Education Act (IDEA)

- Examples: Orthopedic/visual/speech/hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, specific learning disabilities, tuberculosis, diabetes, phenylketonuria, heart condition, food anaphylaxis, mental retardation, emotional illness, drug addiction/alcoholism, HIV, autism, traumatic brain injury

What is School's Responsibility to Children with Disabilities?

- **Provide facilities for participants with disabilities**
 - Example: accessible parking lots, entrances and exits, halls, elevators, rest rooms, service animals, Braille signage, alternative arrangements for service
- **Provide appropriate information in alternative formats for persons with disabilities**
 - Example: Braille program materials, sign language interpreters
- **Provide food substitutions for students with disabilities when documented in writing by a licensed physician**

Providing Menu Item Substitutions

- **USDA regulations only require substitutions or modifications in school meals for children whose disabilities restrict their diets based on a licensed physician's assessment**
Example: food allergies causing life-threatening anaphylactic reactions
- **Disabilities must be documented by a physician's statement**
Physician statement must: state the name of the child's disability, identify how it limits one of the major life activities, specify foods the child cannot have and the foods to be substituted
- **Generally, children with food allergies or intolerances do not have a disability. The school food service may, but is not required to, make food substitutions under these circumstances**
Example: lactose intolerance, sensitivity to food additives
- **USDA has special rules that apply to milk substitutions (See recent USDA policy memos SP 02-2009, 35-2009, & 07-2010 for details)**

Conflict Resolution

Conflict Resolution

- **The USDA recommends using an Alternative Dispute Resolution (ADR) program**

ADR Definition: use of a neutral third party (usually a person acting as a facilitator) to resolve informally a complaint of discrimination through use of various techniques such as fact finding, mediation, peer panels, facilitation, ombudsman support, or conciliation

Visit <http://www.fas.usda.gov/Admin/civilrights/conflictres.asp> for more information



Complaint Procedures

Complaint Information

Applicants and participants must be advised of:

- **Their right to file a complaint**
- **How to file a complaint**
 - Public Release and “And Justice for All” poster assist in disseminating this information
- **Complaint procedures**

Right to File a Complaint

Any person who believes he or she or someone he/she knows has been discriminated against based on Federal or State protected classes (ie. National origin, race, etc.) has a right to file a complaint within **180 days** of the alleged discriminatory action

Complainants may contact any of the following offices to register a complaint:

1. USDA: U. S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, SW, Washington, DC 20250-9410, (866) 632-9992 (toll free), (202) 260-1026, (202) 401-0216 (TDD)

2. Maine Department of Education, Civil Rights Officer, 23 State House Station, Augusta, ME. 04333, or call (207)624-6600

3. Can also be handled locally by your SFA

Forms of Civil Rights Complaints

- **May be written, verbal, or observed**
 - If receiving a verbal complaint, *listen politely*
 - Complaints can be made via phone, letter, email, fax or any other form of communication
- **May be anonymous**
 - Anonymous complaints should be handled as any other complaint
- **Can be related to any area of CNP operation**
 - Program administration, food service, employment

Handling Civil Rights Complaints

STEP 1: Document the Complaint

Make an effort to obtain all of the following information:

- Name, address, and phone number of complainant (when possible, but not required)
- Specific name and location of entity delivering the benefit or service
- The nature of the incident, action, or method of administration that led the complainant to feel discriminated against
- The basis on which the complainant feels discrimination exists (race, color, national origin, sex, etc.)
- The names, titles, business addresses, and phone numbers of persons who may have knowledge of the discriminatory action
- The date(s) during which the alleged discriminatory actions occurred, or if continuing, the duration of such actions

STEP 2: Contact DOE or USDA

All verbal or written complaints should be forwarded to the Civil Rights Division of USDA Food and Nutrition Service and/or DOE within three days of receiving a complaint



Step 3: Maintain Records

- **Have a central location where copies of Civil Rights complaints will be documented and kept**
 - SFAs should consider documenting all complaints in Complaint Log or on Complaint Forms
- **SFAs may provide complaint form to:**
 - Any individual wishing to make a complaint
 - Person receiving verbal or phone complaint

Resolutions of Non-Compliance

Resolution of Non-Compliance

Non-Compliance: a factual finding that any Civil Rights requirement, as provided by law, regulation, policy, instruction, or guidelines is not being adhered to

There are no “minor” or “major” categories of noncompliance. All instances of non-compliance are considered equally

- **No matter the level or severity of noncompliance, it must be reported**

Examples of Non-compliance

- **Denying an individual or household the opportunity to apply for FNS program benefits or services on the basis of Federal or State protected classes (race, color, national origin, age, etc.)**
- **Providing FNS program services or benefits in a dissimilar manner on the basis of race, color, national origin, age, or sex.** Example: Serving lunch to an African American child but serving a snack/modified meal to an Asian American child
- **Selecting FNS program sites or facilities in a manner that denies an individual access to FNS program benefits, assistance, or services on the basis of Federal or State protected classes (race, color, national origin, etc.)** Example: Serving breakfast in some schools, but not at schools located in areas with a high proportion of children with disabilities or a high proportion of minority students

Resolution of Non-Compliance

If non-compliance is indicated, a corrective action plan must be implemented immediately to achieve voluntary compliance within 60 days

Corrective Action Plan: plan describing the agency's actions to be taken to resolve non-compliance with civil rights requirements

Civil Rights Coordinator Within Your School

School Food Authorities must designate an employee who is responsible for USDA Civil Rights issues, and:

- This individual must be designated to receive complaints
- This individual should be identified to all employees
- The designated person should know who to contact if Civil Rights issues arise

For More Information!

- Contact your state's Child Nutrition Office or visit the websites below

- **USDA FNS Civil Rights:**

<http://www.fns.usda.gov/cr/crregulation.htm>

- **Maine Civil Rights:**

http://www.maine.gov/ag/civil_rights/index.shtml

Federal

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal and, where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or if all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).

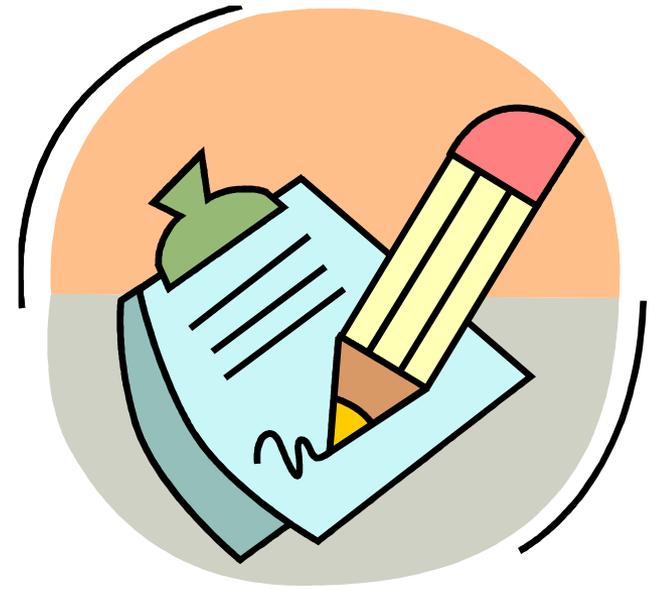
Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

USDA is an equal opportunity provider and employer.

State

This institution is an equal opportunity provider. In accordance with State law this institution is prohibited from discrimination on the basis of race, color, national origin, sex, age, sexual orientation or disability. (Not all prohibited bases apply to all programs.) To file a complaint of discrimination, write Maine Department of Education, Civil Rights Officer, 23 State House Station, Augusta, ME. 04333, or call (207)624-68275 Maine is an equal opportunity provider and employer.

****Parts of this presentation have been adapted from several states, including Iowa, Illinois, Indiana, Missouri, Wisconsin and Texas.**



Employees: Please sign off on receiving this information.